

EXHIBIT 1

**REDACTED PUBLIC
VERSION**

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

-----X

CISCO SYSTEMS, INC.,

Plaintiff,

v.

Case No.:

ARISTA NETWORKS, INC.,

5:14-cv-05344-BLF (PSG)

Defendant.

-----X

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

VIDEOTAPED DEPOSITION OF JEFFREY WHEELER

November 12, 2015

9:33 a.m. - 5:55 p.m.

Richmond, Virginia

Job No. 2183991

REPORTED BY:

Kimberly L. Ribaric, RPR, CCR

PAGES 1 - 255

Page 1

1 Deposition of JEFFREY WHEELER, held at the
2 law office of:

3
4 Troutman Sanders LLP
5 1001 Haxall Point
6 Richmond, Virginia 23219
7
8
9

10
11
12 Pursuant to agreement, before KIMBERLY L.
13 RIBARIC, Registered Professional Reporter,
14 Certified Court Reporter and Notary Public in and
15 for the Commonwealth of Virginia at large.
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23
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25

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22 ALSO PRESENT:

23
24 REID ATTAWAY, Videographer
25

I N D E X

WITNESS: JEFFREY WHEELER	PAGE
Examination By Mr. Krishnan	7

E X H I B I T S

DEFENDANT EXHIBIT	PAGE
Exhibit 17 Résum� of Jeffrey Wheeler	18
Exhibit 18 Defendant Arista Networks, Inc.'s Notice of Subpoena to Jeffrey Wheeler	64
Exhibit 19 UC 4.2s Feature Matrix dated 10/22/99	98
Exhibit 20 Execution Commit	121
Exhibit 21 QuickConfig Installation Utility	130
Exhibit 22 Feature Functional Specification For R4.1 UM CLI Feature Number 4.1.2.8	132
Exhibit 22-A Metadata	133
Exhibit 23 UM CLI For R4.1 Internal Design	151
Exhibit 23-A Metadata	151
Exhibit 24 UMCLI	175
Exhibit 24-A Metadata	175

E X H I B I T S

DEFENDANT EXHIBIT	(CONTINUED)	PAGE
Exhibit 25	Cisco Unified Communications Architecture	175
Exhibit 26	United States Patent No. 7,047,526 B1	175
Exhibit 27	Amteva notebook	175
Exhibit 28	Compilers, Principles, Techniques, and Tools	175

(November 12, 2015, 9:33 a.m.)

JEFFREY WHEELER,

the Witness, called for examination, having been
first duly sworn according to law, was examined
and testified as follows:

- - -

09:33:13

THE VIDEOGRAPHER: Good morning. We are

09:33:13

now on the record. The approximate time is

09:33:27

9:33 a.m. on November 12th, 2015. This is the

09:33:30

video recorded deposition of Jeffrey Wheeler.

09:33:36

My name is Reid Attaway, here with court

09:33:39

reporter Kim Ribaric, we are here from

09:33:41

Vertitext Legal Solutions at the request of

09:33:44

counsel for the defendant.

09:33:45

This deposition is being held at

09:33:46

1001 Haxall Point in Richmond, Virginia.

09:33:50

The caption of this case is Cisco Systems

09:33:51

versus Arista Networks.

09:33:54

Please note that audio and video

09:33:56

recording will take place unless all parties

09:33:59

agree to go off the record. Microphones are

09:34:03

sensitive and may pick up whispers, private

09:34:03

conversations and cellular interference.

09:34:03

I am not authorized to administer an

09:34:08

oath, and I am not related to any party in

09:34:11

Page 6

1 A. I don't have enough knowledge of the Bay 12:00:23
2 tool to say all the differences or the number of 12:00:26
3 differences. 12:00:29

4 Q. Okay. Well, let's talk about maybe the 12:00:30
5 other Cisco routers that you were familiar with. 12:00:34

6 A. Okay. 12:00:38

7 Q. They also had OA&M tools; correct? 12:00:38

8 A. They had -- or if you're referring to the 12:00:41
9 CLI for -- for Cisco? 12:00:45

10 Q. Yes. 12:00:46

11 A. Yeah, they had a CLI, and it allowed you 12:00:47
12 to do administrative functions and monitoring 12:00:50
13 functions. 12:00:56

14 Q. Okay. And the Cisco CLI you're referring 12:00:57
15 to is IOS CLI? 12:01:00

16 A. Correct. 12:01:04

17 Q. Okay. And that's sort of the 12:01:05
18 Cisco-branded CLI? 12:01:06

19 A. Sure. 12:01:07

20 Q. Okay. And that CLI, what types of OA&M 12:01:08
21 tools were accessible through that CLI? 12:01:13

22 A. You could restart the box. You could go 12:01:17
23 into an able mode. You could see statistics and 12:01:24
24 counters. You could look at the version of the -- 12:01:30
25 of the IOS and the hardware. You could, you know, 12:01:35

1 Q. But putting that distinction aside 12:03:38
2 between what level of the OSI protocol the OA&M 12:03:41
3 tools were operating at, the Cisco IOS CLI also 12:03:46
4 was a single entry point for administering the 12:03:55
5 sort of downstream OA&M tools that it managed? 12:04:00
6 A. It was focused, yeah, on administering 12:04:06
7 that -- at administrating the UM system and -- and 12:04:09
8 executing other tools within the UM system to 12:04:17
9 accomplish OA&M functions. 12:04:21
10 Q. Okay. So are -- you're talking there 12:04:23
11 about UM CLI -- 12:04:25
12 A. UM CLI. You asked about UM CLI? 12:04:26
13 Q. I'm sorry. I was asking about IOS CLI. 12:04:28
14 A. Okay. I'm sorry. I heard that. 12:04:31
15 Q. Putting aside the distinction between 12:04:31
16 what level the OA&M tools we're working at, the 12:04:34
17 IOS CLI also offered a single entry point -- 12:04:40
18 A. Oh. Okay. 12:04:40
19 Q. -- interface to deal with whatever OA&M 12:04:41
20 tools it was managing; right? 12:04:44
21 A. Correct. 12:04:46

22 Q. Okay. Did the IOS CLI have a -- did it 12:04:46
23 use generic commands to administer these OA&M 12:04:52
24 tools? 12:04:57
25 MR. TUNG: Object to the extent it calls 12:04:57

1 for a legal conclusion. 12:04:59

2 THE WITNESS: What do you mean by 12:05:00

3 "generic commands"? 12:05:04

4 BY MR. KRISHNAN: 12:05:05

5 Q. You're familiar with the term generic 12:05:06

6 commands in your patent, the '526 patent? 12:05:09

7 A. That -- 12:05:11

8 MR. TUNG: Same objection. 12:05:11

9 THE WITNESS: Yeah, that -- that is 12:05:12

10 language that is nothing I use as a -- as an 12:05:14

11 engineer. 12:05:17

12 BY MR. KRISHNAN: 12:05:19

13 Q. Okay. So -- okay. Well, let's -- let's 12:05:24

14 put that aside then. 12:05:24

15 How would you say -- other than the level 12:05:26

16 at which the OA&M tools were operating, how else 12:05:31

17 would you say that the UM CLI solution that you 12:05:39

18 developed was different from the IOS CLI method 12:05:43

19 for administrating the OA&M tools? 12:05:49

20 A. The UM CLI tool -- well, besides the fact 12:05:53

21 that it worked at a different layer, the tool 12:06:02

22 could -- it had a auto completion feature, which 12:06:09

23 you could begin typing characters, and then it 12:06:15

24 would try to make the best match based on what 12:06:22

25 characters were typed. I don't believe the U -- 12:06:25

Page 126

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[REDACTED]

[REDACTED]

[REDACTED]

13 MR. KRISHNAN: Okay. I think -- why 02:21:08

14 don't we take a break right there. 02:21:09

15 THE WITNESS: Okay. 02:21:10

16 THE VIDEOGRAPHER: We are going off the 02:21:11

17 video record at 2:21 p.m. 02:21:14

18 (Proceedings recessed at 2:21 p.m., and 02:21:19

19 reconvened at 2:32 p.m.) 02:27:29

20 THE VIDEOGRAPHER: This is the beginning 02:31:56

21 of Disc 3. We are back on the record at 02:32:27

22 2:32 p.m. Counsel may proceed. 02:32:31

23 BY MR. KRISHNAN: 02:32:33

24 Q. Okay. You're familiar with the term 02:32:42

25 "generic commands" from your '526 patent? 02:32:44

[illegible]

[illegible]

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[REDACTED]

Page 233

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

10 Q. Okay. 05:26:02

11 A. But I could -- I could be wrong on that. 05:26:02

12 Q. Okay. So I guess what I'm wondering is 05:26:05

13 if someone just came across this patent in like 05:26:08

14 2001 or 2002 or 2005, and they were interested in 05:26:12

15 knowing about what these old command line syntax 05:26:17

16 functions did, how would they go about learning 05:26:23

17 about that? 05:26:33

18 A. I -- that's -- can you be more specific? 05:26:34

19 The question's kind of vague to me. I don't 05:26:39

20 understand. You -- in what aspects are you trying 05:26:43

21 to -- just clarify your question, if you don't 05:26:47

22 mind. 05:26:50

23 Q. Yeah. How is anyone reading this patent 05:26:51

24 supposed to know that -- what these commands in 05:26:54

25 the old command line syntax were or what they did? 05:26:58

Page 234

14	troubleshooting course.	05:28:21
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Page 235

2 Q. Okay. And sort of a related question is: 05:29:17
3 How is someone who is just reading this patent 05:29:21
4 even supposed to know that the UM CLI product is 05:29:25
5 the one that's referenced here in columns 5 and 6? 05:29:29
6 A. Well, columns -- the second column is the 05:29:33
7 syntax that UM CLI require -- used. So if they 05:29:39
8 saw this syntax and matched it with the UM 05:29:45
9 customer documentation, they would know that 05:29:51
10 that's related to UM CLI. 05:29:53
11 Q. Was the UM CLI syntax well known in 05:29:55
12 the -- in the field? 05:30:00
13 MR. TUNG: Objection. Vague. 05:30:01
14 THE WITNESS: It was -- it was 05:30:06
15 documented. So well known -- if people 05:30:07
16 administered UM systems, they went to our 05:30:10
17 training, then yes, they would have known 05:30:13
18 about it. 05:30:15
19 BY MR. KRISHNAN: 05:30:15
20 Q. Okay. You said if someone were to match 05:30:16
21 the syntax in column 2 with the -- 05:30:19
22 A. Documentation. 05:30:25
23 Q. And that documentation is documentation 05:30:27
24 from Cisco; right? 05:30:28
25 A. Yeah, that's our documentation that we 05:30:30

Page 238

Page 239

Page 240

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[REDACTED]

17 BY MR. KRISHNAN: 05:37:34

18 Q. Is there any set of simple guidelines 05:37:34

19 that you could give for someone who's trying to 05:37:38

20 develop a new syntax from an old syntax to -- 05:37:43

21 to -- that would capture the concept of -- of the 05:37:52

22 generic command? 05:37:55

23 MR. TUNG: Objection. Vague. And 05:37:57

24 objection, calls for a legal conclusion. 05:38:00

25 THE WITNESS: The guidelines that I 05:38:06

Page 241

1 pre-1996 development of the UM product, you didn't 05:54:52
2 tell Kirkland anything in either the phone call or 05:54:58
3 the meeting that you haven't testified to today? 05:55:01

4 A. Yeah, I don't recall anything besides 05:55:04
5 that that was -- that was different. There was 05:55:15
6 more covered today than there was in those 05:55:19
7 conversations. 05:55:22

8 MR. KRISHNAN: Okay. I don't have any 05:55:23
9 further questions. Thank you. 05:55:24

10 THE WITNESS: Okay. 05:55:26

11 MR. TUNG: So I want to designate the 05:55:26
12 transcript highly confidential, attorneys' 05:55:29
13 eyes only, and reserve our rights under the 05:55:36
14 federal rules to submit errata. And I think 05:55:39
15 we're done. 05:55:39

16 THE VIDEOGRAPHER: This is the end of 05:55:41
17 Disc 4 and end of the deposition. We are 05:55:43
18 going off the record at 5:55 p.m. 05:55:45

19 - - -

20 (Deposition concluded, 5:55 p.m.)

21 - - -

22 (Signature reserved.)
23
24
25

1 COMMONWEALTH OF VIRGINIA AT LARGE, to wit:

2 I, Kimberly L. Ribaric, Registered Professional
3 Reporter, Certified Court Reporter and Notary
4 Public in and for the Commonwealth of Virginia at
5 Large, and whose commission expires August 31,
6 2016, do certify that the aforementioned appeared
7 before me, was sworn by me, was thereupon examined
8 by counsel, that review was requested; and that
9 the foregoing is a true, correct, and full
10 transcript of the testimony adduced.

11 I further certify that I am neither related to
12 nor associated with any counsel or party to this
13 proceeding, nor otherwise interested in the event
14 thereof.

15 Given under my hand and notarial seal at
16 Fluvanna County, Virginia, this 24th day of
17 November 2015.

18
19
20 Kimberly L. Ribaric, RPR, CCR

21 Notary Public Registration No. 348266

22 I was commissioned a notary public as Kimberly L. Krett
23 Commonwealth of Virginia at Large
24
25

1 I declare under penalty of perjury
2 under the laws that the foregoing is
3 true and correct.

4
5 Executed on _____, 20____,
6 at _____, _____.

7
8
9
10
11 _____

12 JEFFREY WHEELER
13
14
15
16
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